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OFFICE OF PETITIONS

In re Application of
BRASSIL
Application No. 09/351,597
Filed: July 12, 1999
Attorney Docket No. BRASSIL-3

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final office action mailed January 29, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 30, 2002.


The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee of \$1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action of January 29, 2002 is accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The Associate Power of Attorney of February 23, 2005 and March 22, 2005 were filed on or after June 25, 2004, the effective date of a rule change eliminating Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). See Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (Jun. 22, 2004). Although the papers have been placed in the file, the names of the patent practitioner(s) listed on these Associate Powers of Attorney have not been made of record.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 2155.


Frances Hicks
Petitions Examiner
Office of Petitions